

June 7, 2006 BZA



REQUEST ANALYSIS  
AND  
RECOMMENDATION

06AN0271

John Shurm

Bermuda Magisterial District  
2331 Hubert Lane

REQUEST: A Variance to use a parcel of land which fronts on a dedicated but unimproved public road for dwelling purposes in an Agricultural (A) District.

RECOMMENDATION

Recommend denial for the following reasons:

- A. As required by the Zoning Ordinance, there are no conditions upon which the request is based that are unique to the property and are not applicable generally to other properties in the area.
- B. There are no physical surroundings, shape or topographical conditions on this property that a particular hardship would result to the owner if the requirements of the Zoning Ordinance were carried out and a public road constructed to State standards.

GENERAL INFORMATION

Location:

Property is known as 2331 Hubert Lane. Tax ID 827-645-6625 (Sheet 36).

Existing Zoning:

Agricultural (A)

Providing a FIRST CHOICE community through excellence in public service

Size:

4.4 acres

Existing Land Use:

Vacant

Adjacent Zoning and Land Use:

North -A; Residential  
South -A; Vacant  
East -A; Residential and vacant  
West -A; Residential

Utilities:

Private well and septic system

Environmental Engineering:

There is a Resource Protection Area (RPA) and flood plain on the subject property.

Transportation:

In order for the applicant to provide maintenance to this section of Hubert Lane a license agreement must be obtained from the Board of Supervisors. The license agreement typically requires the applicant to perform all maintenance to the access road within the right of way. In similar situations throughout the County, residents often request the County to perform maintenance on the right of way even though a private maintenance agreement exists. The County has no funds budgeted for this service.

General Plan:

(Eastern Area (Consolidated))

Residential  
(4.0 units per acre or less)

DISCUSSION

The applicant requests a Variance to use a parcel of land which fronts along a dedicated, but unimproved, public road for dwelling purposes. The access to the dwelling will be over a forty (40) foot dedicated road from Spruce Avenue to the subject property from Point A to Point B, as shown on the attached map.

The applicant provides the following justification in support of this request:

I would like to build a single family dwelling on the property. Not being able to improve this property greatly reduces its use and value. It has already been subdivided, so further subdivision would not be useful. It has access via a forty (40) foot gravel drive that also provides access for other homes in the subdivision. Granting a Variance allows the property to be improved in a similar manner as adjacent properties. Any other use, other than a single family home would not be beneficial to the area.

The Board of Zoning Appeals hears requests for no public road frontage when the subject property was recorded prior to 1980, is being subdivided and sold or given to a member of the property owner's immediate family, or complies with the plat validation process. In this case, the property was recorded July 6, 1960. Therefore, the Board of Zoning Appeals must determine if Hubert Lane must be constructed to State standards or a Variance granted to construct a dwelling on a lot which fronts along a dedicated but unimproved public road.

The plat submitted with this application shows Hubert Lane as a forty (40) foot wide unimproved public road. Within this unimproved public road, an access drive has been constructed of dirt, rock and gravel with little or no shoulder and drainage ditch. This access provides a road for approximately four (4) families. Staff's field inspection revealed that the existing access road (Hubert Lane) from Point A to Point B is currently acceptable and does not need to be improved at this time. However, staff suggests that the standard conditions be approved with this request if any conditions change in the future (pot holes, rutting, drainage, etc.). The plat also indicates the subject property is located in a portion of Poplar Hills Subdivision which was recorded in 1960.

The subject property is owned by James H. and Julia B. Davis (James Davis is deceased). This request lies on 4.4 acres located off the southwestern line of Hubert Lane approximately 650 feet southeast of Spruce Avenue. Hubert Lane is a forty (40) foot dedicated but unimproved public road. The applicant plans to construct a single family dwelling on the subject property.

As required by the Zoning Ordinance, the applicant has provided no information which would serve as a basis for granting this Variance. There are no physical surroundings, shape or topographical conditions on the property which would present a particular hardship to the owner if this Variance were denied. There are no conditions upon which this request is based which are unique to the property and do not apply generally to other properties in the area.

This request is based on financial consideration rather than physical hardship or other conditions that are not applicable to other properties in the area. Therefore, staff cannot support this request.

Staff believes that the Board should deny this request for the reasons previously noted.

However, if the Board feels that this request has merit, staff recommends that it be subject to the following conditions:

## CONDITIONS

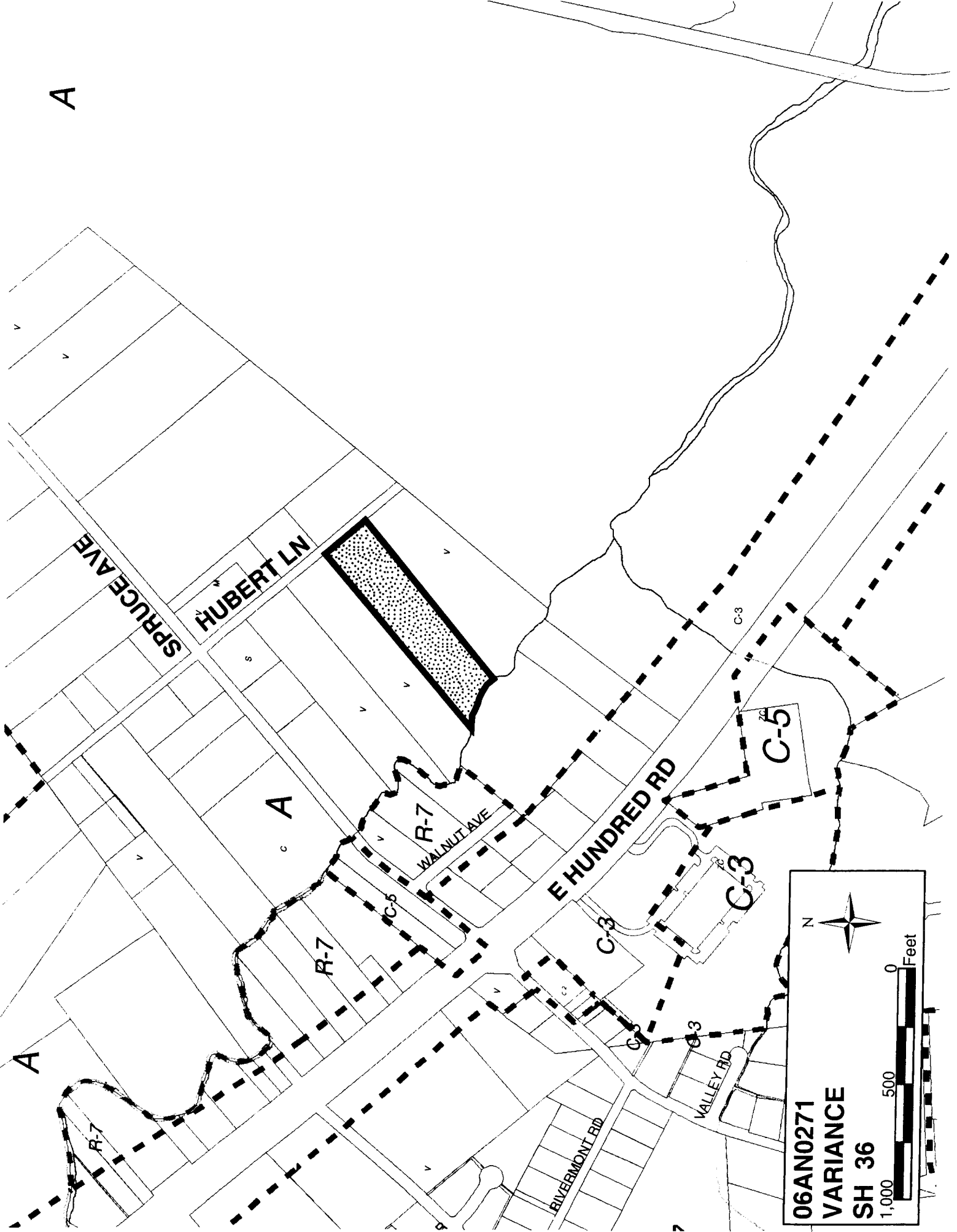
1. When the applicant applies for a building permit, the applicant shall provide a copy of a recorded instrument which will include:

A dedicated and unimproved County right of way from Point A to Point B, as shown on the plat attached to the staff report. The applicant shall provide a copy of the approved license agreement with the County if any work is required to be performed in the right of way.

2. The approved dedicated and unimproved County right of way shall meet the following requirements:

- (a) The instrument shall require that no structure or fence shall be constructed to block the easement and shall require the land owner of the subject parcel to be responsible for maintenance of the access in accordance with the standards set forth below;
- (b) A fifteen (15) foot wide roadway shall be constructed and maintained to all weather standards from Point A to Point B. Prior to issuing a Certificate of Occupancy, the Planning Department shall inspect this roadway to determine its compliance with the following standards:
- (c) The roadway shall consist of not less than the following: compacted soil sub-base with six (6) inches of compacted 21-B crushed stone. If an asphalt based surface is to be applied, it shall be designed and constructed to Chesterfield County subdivision street requirements or an equivalent design approved by the Subdivision Team, capable of supporting the projected 75,000 pound vehicle weight. The roadway shall not be approved if it is rutted or potholed and shall be maintained to this standard.
- (d) There shall be an additional three (3) foot clear area beyond the edge of the roadway.
- (e) There shall be a minimum vertical clearance of fourteen (14) feet of area above the roadway.
- (f) The roadway shall have a maximum grade of ten (10) percent with an appropriate transition at the street connection.
- (g) The minimum inside turning radius for any curve shall be twenty-seven (27) feet.

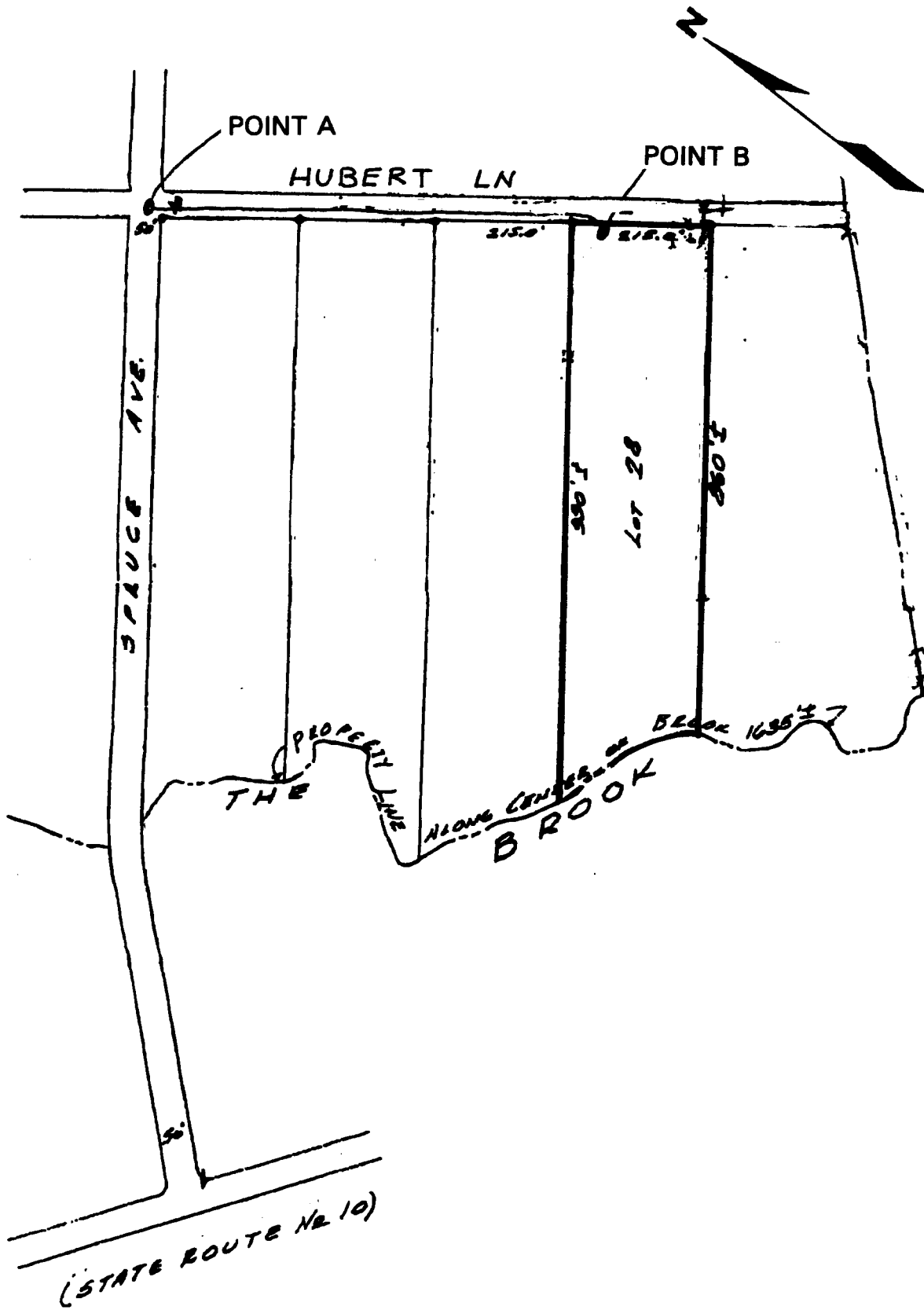
- (h) Any cross drains shall be designed to accommodate a minimum ten (10) year storm.
- 3. The house number shall be installed on the mailbox or a pole and located at the driveway entrance to the property. The house numbers shall be displayed in at least four (4) inch high numbers.
- 4. The subject property shall not be further subdivided, including any family subdivisions, unless public road frontage is provided.



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**VARIANCE**  
**SH 36**

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